

1-1 By: Edwards (Senate Sponsor - Hinojosa) H.B. No. 2154
1-2 (In the Senate - Received from the House May 15, 2009;
1-3 May 19, 2009, read first time and referred to Committee on Finance;
1-4 May 25, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 2, 1 present not
1-6 voting; May 25, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2154 By: Hinojosa
1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the physician education loan repayment program.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 61.532(a), Education Code, is amended to
1-13 read as follows:
1-14 (a) To be eligible to receive repayment assistance, a
1-15 physician must:
1-16 (1) apply to the coordinating board [and have
1-17 completed at least one year of medical practice:
1-18 [~~(1) in private practice in an economically depressed~~
1-19 ~~or rural medically underserved area of the state];~~
1-20 (2) at the time of application, be licensed to
1-21 practice medicine under Subtitle B, Title 3, Occupations Code [for
1-22 one of the following state agencies:
1-23 [~~(A) Texas Department of Health;~~
1-24 [~~(B) Texas Department of Mental Health and Mental~~
1-25 Retardation;
1-26 [~~(C) Texas Department of Corrections; or~~
1-27 [~~(D) Texas Youth Commission]; [or]~~
1-28 (3) have completed one, two, three, or four
1-29 consecutive years of practice in a health professional shortage
1-30 area designated by the Department of State Health Services; and
1-31 (4) provide health care services to:
1-32 (A) recipients under the medical assistance
1-33 program authorized by Chapter 32, Human Resources Code; or
1-34 (B) enrollees under the child health plan program
1-35 authorized by Chapter 62, Health and Safety Code [for an approved
1-36 family practice residency training program established under
1-37 Subchapter I as a clinical faculty member and have completed
1-38 training in an approved family practice residency training program
1-39 on or after July 1, 1994].
1-40 SECTION 2. Section 61.533, Education Code, is amended to
1-41 read as follows:
1-42 Sec. 61.533. LIMITATION. A physician may receive repayment
1-43 assistance grants for ~~each of~~ not more than four ~~five~~ years.
1-44 SECTION 3. Section 61.535(a), Education Code, is amended to
1-45 read as follows:
1-46 (a) The coordinating board shall deliver any repayment made
1-47 under this subchapter in a lump sum payable:
1-48 (1) to both the [lender and the] physician and the
1-49 lender or other holder of the affected loan; or
1-50 (2) directly to the lender or other holder of the loan
1-51 on the physician's behalf [, in accordance with federal law].
1-52 SECTION 4. Section 61.536, Education Code, is amended to
1-53 read as follows:
1-54 Sec. 61.536. ADVISORY COMMITTEES. The coordinating board
1-55 may~~+~~
1-56 ~~[(1)]~~ appoint advisory committees from outside the
1-57 board's membership to assist the board in performing its duties
1-58 under this subchapter ~~, and~~
1-59 ~~[(2) request the assistance of the Family Practice~~
1-60 ~~Residency Advisory Committee in performing those duties].~~
1-61 SECTION 5. Section 61.537, Education Code, is amended to
1-62 read as follows:
1-63 Sec. 61.537. RULES. (a) The coordinating board shall adopt

2-1 rules necessary for the administration of this subchapter[
2-2 including a rule that sets a maximum amount of repayment assistance
2-3 that may be received by a physician in one year and a rule that
2-4 authorizes the Family Practice Residency Advisory Committee to
2-5 establish priorities among eligible physicians for repayment
2-6 assistance, by taking into account the degree of physician
2-7 shortage, geographic locations, whether the physician is or will be
2-8 providing service in a medically underserved area, and other
2-9 criteria the committee considers appropriate].

2-10 (b) The coordinating board shall distribute to each medical
2-11 unit [~~and appropriate state agency~~] and professional association
2-12 copies of the rules adopted under this section and pertinent
2-13 information in this subchapter.

2-14 SECTION 6. Section 61.538, Education Code, is amended to
2-15 read as follows:

2-16 Sec. 61.538. ~~[TOTAL]~~ AMOUNT OF REPAYMENT ASSISTANCE.

2-17 (a) A physician may receive repayment assistance under this
2-18 subchapter in the amount determined by board rule, not to exceed the
2-19 following amounts for each year for which the physician establishes
2-20 eligibility for the assistance:

- 2-21 (1) for the first year, \$25,000;
- 2-22 (2) for the second year, \$35,000;
- 2-23 (3) for the third year, \$45,000; and
- 2-24 (4) for the fourth year, \$55,000.

2-25 (b) The total amount of repayment assistance distributed
2-26 by the board may not exceed the total amount of money available in
2-27 the physician education loan repayment program account [~~gifts and~~
2-28 ~~grants accepted by the board for repayment assistance, medical~~
2-29 ~~school tuition set aside under Section 61.539 of this code, and~~
2-30 ~~legislative appropriations for repayment assistance~~].

2-31 (c) The total amount of repayment assistance made under this
2-32 subchapter to an individual physician may not exceed \$160,000.

2-33 SECTION 7. Sections 61.539(b) and (c), Education Code, are
2-34 amended to read as follows:

2-35 (b) The amount set aside shall be transferred to the
2-36 comptroller of public accounts to be deposited in the physician
2-37 education loan repayment program account established under Section
2-38 61.5391 [~~maintained in the state treasury for the sole purpose of~~
2-39 ~~repayment of student loans of a physician serving in a designated~~
2-40 ~~state agency or in an area of this state that is economically~~
2-41 ~~depressed or that is a medically underserved area or health~~
2-42 ~~professional shortage area, as designated by the United States~~
2-43 ~~Department of Health and Human Services, that has a current~~
2-44 ~~shortage of physicians~~]. Section 403.095, Government Code, does
2-45 not apply to the amount set aside by this section.

2-46 (c) As soon as practicable after each state fiscal year, the
2-47 comptroller shall prepare a report for that fiscal year of the
2-48 number of students registered in a medical branch, school, or
2-49 college, the total amount of tuition charges collected by each
2-50 institution, the total amount transferred to the comptroller
2-51 [~~treasury~~] under this section, and the total amount available in
2-52 the physician education loan repayment program account [~~under~~
2-53 ~~Subsection (b)~~] for the repayment of student loans of physicians
2-54 under this subchapter. The comptroller shall deliver a copy of the
2-55 report to the board and to the governor, lieutenant governor, and
2-56 speaker of the house of representatives not later than January 1
2-57 following the end of the fiscal year covered by the report.

2-58 SECTION 8. Subchapter J, Chapter 61, Education Code, is
2-59 amended by adding Section 61.5391 to read as follows:

2-60 Sec. 61.5391. PHYSICIAN EDUCATION LOAN REPAYMENT PROGRAM
2-61 ACCOUNT. (a) The physician education loan repayment program
2-62 account is an account in the general revenue fund. The account is
2-63 composed of:

- 2-64 (1) gifts and grants contributed to the account;
- 2-65 (2) earnings on the principal of the account; and
- 2-66 (3) other amounts deposited to the credit of the
2-67 account, including:
 - 2-68 (A) money deposited under Section 61.539(b);
 - 2-69 (B) legislative appropriations; and

3-1 (C) money deposited under Section 155.2415, Tax
 3-2 Code.

3-3 (b) Money in the account may not be appropriated for any
 3-4 purpose except to provide loan repayment assistance to eligible
 3-5 physicians under this subchapter.

3-6 SECTION 9. Section 61.540, Education Code, is amended to
 3-7 read as follows:

3-8 Sec. 61.540. LOAN REPAYMENT ASSISTANCE [SERVICE AGREEMENTS
 3-9 ENTERED INTO] UNDER FORMER LAW; SAVING PROVISION. (a) This
 3-10 subsection [section] applies only to a person who entered into a
 3-11 written agreement to perform service as a physician in exchange for
 3-12 loan repayment assistance under this subchapter before September 1,
 3-13 2003.

3-14 [~~(b)~~] The agreement continues in effect and this
 3-15 subchapter, as it existed when the person entered into the
 3-16 agreement, is continued in effect for purposes of that agreement
 3-17 until the person satisfies all the conditions of the agreement or
 3-18 repays all amounts due under the agreement if the person does not
 3-19 satisfy the conditions of the agreement.

3-20 (b) A person receiving loan repayment assistance under this
 3-21 subchapter immediately before the effective date of the amendments
 3-22 made to this subchapter by the 81st Legislature, Regular Session,
 3-23 2009, may continue to receive loan repayment assistance under this
 3-24 subchapter, as this subchapter applied to the person immediately
 3-25 before the effective date of those amendments, until the person is
 3-26 no longer eligible for loan repayment assistance under this
 3-27 subchapter, as this subchapter existed on that date, and the former
 3-28 law is continued in effect for that purpose.

3-29 (c) A person to whom this section applies is not eligible to
 3-30 receive repayment assistance under another provision of this
 3-31 subchapter.

3-32 SECTION 10. Section 155.0211, Tax Code, is amended by
 3-33 amending Subsection (b) and adding Subsections (b-1), (b-2), (b-3),
 3-34 (b-4), (c), (d), and (e) to read as follows:

3-35 (b) Except as provided by Subsection (c), the [The] tax rate
 3-36 for each can or package of a tobacco product [products] other than
 3-37 cigars is \$1.22 per ounce and a proportionate rate on all fractional
 3-38 parts of an ounce [40 percent of the manufacturer's list price,
 3-39 exclusive of any trade discount, special discount, or deal].

3-40 (b-1) Notwithstanding Subsection (b) and except as provided
 3-41 by Subsection (c), for the state fiscal year beginning September 1,
 3-42 2012, the tax rate for each can or package of a tobacco product
 3-43 other than cigars is \$1.19 per ounce and a proportionate rate on all
 3-44 fractional parts of an ounce. This subsection expires December 1,
 3-45 2013.

3-46 (b-2) Notwithstanding Subsection (b) and except as provided
 3-47 by Subsection (c), for the state fiscal year beginning September 1,
 3-48 2011, the tax rate for each can or package of a tobacco product
 3-49 other than cigars is \$1.16 per ounce and a proportionate rate on all
 3-50 fractional parts of an ounce. This subsection expires December 1,
 3-51 2012.

3-52 (b-3) Notwithstanding Subsection (b) and except as provided
 3-53 by Subsection (c), for the state fiscal year beginning September 1,
 3-54 2010, the tax rate for each can or package of a tobacco product
 3-55 other than cigars is \$1.13 per ounce and a proportionate rate on all
 3-56 fractional parts of an ounce. This subsection expires December 1,
 3-57 2011.

3-58 (b-4) Notwithstanding Subsection (b) and except as provided
 3-59 by Subsection (c), for the state fiscal year beginning September 1,
 3-60 2009, the tax rate for each can or package of a tobacco product
 3-61 other than cigars is \$1.10 per ounce and a proportionate rate on all
 3-62 fractional parts of an ounce. This subsection expires December 1,
 3-63 2010.

3-64 (c) The tax imposed on a can or package of a tobacco product
 3-65 other than cigars that weighs less than 1.2 ounces is equal to the
 3-66 amount of the tax imposed on a can or package of a tobacco product
 3-67 that weighs 1.2 ounces.

3-68 (d) The computation of the tax under this section and the
 3-69 applicability of Subsection (c) shall be based on the net weight as

4-1 listed by the manufacturer. The total tax to be imposed on a unit
 4-2 that contains multiple individual cans or packages is the sum of the
 4-3 taxes imposed by this section on each individual can or package
 4-4 intended for sale or distribution at retail.

4-5 (e) A change in the tax rate in effect for a state fiscal
 4-6 year that occurs in accordance with this section does not affect
 4-7 taxes imposed before that fiscal year, and the rate in effect when
 4-8 those taxes were imposed continues in effect for purposes of the
 4-9 liability for and collection of those taxes.

4-10 SECTION 11. Section 155.101, Tax Code, is amended to read as
 4-11 follows:

4-12 Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Each
 4-13 distributor, wholesaler, bonded agent, and export warehouse shall
 4-14 keep records at each place of business of all tobacco products
 4-15 purchased or received. Each retailer shall keep records at a single
 4-16 location, which the retailer shall designate as its principal place
 4-17 of business in the state, of all tobacco products purchased and
 4-18 received. These records must include the following, except that
 4-19 Subdivision (7) applies to distributors only and Subdivision (8)
 4-20 applies only to the purchase or receipt of tobacco products other
 4-21 than cigars:

4-22 (1) the name and address of the shipper or carrier and
 4-23 the mode of transportation;

4-24 (2) all shipping records or copies of records,
 4-25 including invoices, bills of lading, waybills, freight bills, and
 4-26 express receipts;

4-27 (3) the date and the name of the place of origin of the
 4-28 tobacco product shipment;

4-29 (4) the date and the name of the place of arrival of
 4-30 the tobacco product shipment;

4-31 (5) a statement of the number, kind, and price paid for
 4-32 the tobacco products;

4-33 (6) the name, address, permit number, and tax
 4-34 identification number of the seller;

4-35 (7) the manufacturer's list price for the tobacco
 4-36 products; ~~and~~

4-37 (8) the net weight as listed by the manufacturer for
 4-38 each unit; and

4-39 (9) any other information required by rules of the
 4-40 comptroller.

4-41 SECTION 12. Section 155.102, Tax Code, is amended by adding
 4-42 Subsection (c) to read as follows:

4-43 (c) In addition to the information required under
 4-44 Subsection (b), the records for each sale, distribution, exchange,
 4-45 or use of tobacco products other than cigars must show the net
 4-46 weight as listed by the manufacturer for each unit.

4-47 SECTION 13. Section 155.103, Tax Code, is amended by adding
 4-48 Subsection (a-1) and amending Subsection (b) to read as follows:

4-49 (a-1) In addition to the information required under
 4-50 Subsection (a), the records for each sale of tobacco products other
 4-51 than cigars must show the net weight as listed by the manufacturer
 4-52 for each unit.

4-53 (b) A manufacturer who sells tobacco products to a permit
 4-54 holder in this state shall file with the comptroller, on or before
 4-55 the last day of each month, a report showing the information
 4-56 required to be listed by Subsections [in Subsection] (a) and (a-1),
 4-57 if applicable, for the previous month.

4-58 SECTION 14. Section 155.105(b), Tax Code, is amended to
 4-59 read as follows:

4-60 (b) The wholesaler or distributor shall file the report on
 4-61 or before the 25th day of each month. The report must contain the
 4-62 following information for the preceding calendar month's sales in
 4-63 relation to each retailer:

4-64 (1) the name of the retailer and the address of the
 4-65 retailer's outlet location to which the wholesaler or distributor
 4-66 delivered cigars or tobacco products, including the city and zip
 4-67 code;

4-68 (2) the taxpayer number assigned by the comptroller to
 4-69 the retailer, if the wholesaler or distributor is in possession of

5-1 the number;

5-2 (3) the tobacco permit number of the outlet location

5-3 to which the wholesaler or distributor delivered cigars or tobacco

5-4 products; and

5-5 (4) the monthly net sales made to the retailer by the

5-6 wholesaler or distributor, including:

5-7 (A) the quantity and units of cigars and tobacco

5-8 products sold to the retailer; and

5-9 (B) for each unit of tobacco products other than

5-10 cigars, the net weight as listed by the manufacturer.

5-11 SECTION 15. Section 155.111, Tax Code, is amended by adding

5-12 Subsection (b-1) to read as follows:

5-13 (b-1) In addition to the information required under

5-14 Subsection (b), the report must show the net weight as listed by the

5-15 manufacturer for each unit of tobacco products other than cigars

5-16 that is purchased, received, or acquired.

5-17 SECTION 16. Section 155.2415, Tax Code, is amended to read

5-18 as follows:

5-19 Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY

5-20 TAX RELIEF FUND AND CERTAIN OTHER FUNDS. Notwithstanding Section

5-21 155.241, the ~~[all]~~ proceeds from the collection of taxes imposed by

5-22 Section 155.0211 shall be allocated as follows:

5-23 (1) the amount of the proceeds that is equal to the

5-24 amount that, if the taxes imposed by Section 155.0211 were imposed

5-25 at a rate of 40 percent of the manufacturer's list price, exclusive

5-26 of any trade discount, special discount, or deal, would be

5-27 attributable to the portion of that ~~[the]~~ tax rate in excess of

5-28 35.213 percent ~~[of the manufacturer's list price, exclusive of any~~

5-29 ~~trade discount, special discount, or deal]~~, shall be deposited to

5-30 the credit of the property tax relief fund under Section 403.109,

5-31 Government Code;

5-32 (2) the amount of the proceeds that is equal to the

5-33 amount that would be attributable to a tax rate of 35.213 percent of

5-34 the manufacturer's list price, exclusive of any trade discount,

5-35 special discount, or deal, if the taxes were imposed by Section

5-36 155.0211 at that rate, shall be deposited to the credit of the

5-37 general revenue fund; and

5-38 (3) 100 percent of the remaining proceeds shall be

5-39 deposited to the credit of the physician education loan repayment

5-40 program account established under Subchapter J, Chapter 61,

5-41 Education Code.

5-42 SECTION 17. Sections 61.531(b) and (c) and 61.532(b),

5-43 Education Code, are repealed.

5-44 SECTION 18. As soon as practicable after the effective date

5-45 of this Act, the Texas Higher Education Coordinating Board shall

5-46 adopt rules necessary to administer Subchapter J, Chapter 61,

5-47 Education Code, as amended by this Act. For that purpose, the

5-48 coordinating board may adopt the initial rules in the manner

5-49 provided by law for emergency rules.

5-50 SECTION 19. The changes in law made by this Act in amending

5-51 Chapter 155, Tax Code, do not affect tax liability accruing before

5-52 the effective date of this Act. That liability continues in effect

5-53 as if this Act had not been enacted, and the former law is continued

5-54 in effect for the collection of taxes due and for civil and criminal

5-55 enforcement of the liability for those taxes.

5-56 SECTION 20. This Act takes effect September 1, 2009.

5-57 * * * * *